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10/531,259	04/24/2006	Gisela Meister	MEIS3002/JEK	4669
23364	7590	02/18/2009	EXAMINER	
BACON & THOMAS, PLLC			DOAN, TRANG T	
625 SLATERS LANE			ART UNIT	PAPER NUMBER
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ALEXANDRIA, VA 22314-1176				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/531,259	MEISTER ET AL.	
	Examiner	Art Unit	
	TRANG DOAN	2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 November 2008.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-14 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 13 April 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on 11/26/2008.
2. Claims 1, 10 and 14 have been amended.
3. Claims 1-14 are pending for consideration.

Response to Arguments

4. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's argument with respect to the 35 U.S.C. 112 2nd paragraph rejection has been fully considered in view of the amendment filed 11/26/2008, which has been made in record, and the 35 U.S.C. 112 2nd paragraph rejection has been withdrawn.

Claim Objections

6. Claims 13 and 14 are objected to because of the following informalities:
Regarding claim 13, “a portable data carrier” should be “the portable data carrier”.
Regarding claim 14, “a portable data carrier according to claim 10 and a terminal according to claim 13” should be “the portable data carrier according to claim 10 and the terminal according to claim 13”.
Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-8, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura et al. (US 7162058) (hereinafter Mimura) in view of Kao et al. (US 6651168) (hereinafter Kao).

Regarding claim 1, Mimura discloses a method for effecting a secure electronic transaction on a terminal using a portable data carrier (Mimura: See figure 1 items 100, 102 and 103), wherein the portable data carrier performs a user authentication method, the portable data carrier confirms the proof of authentication to the terminal, and the portable data carrier then performs a security-establishing operation within the electronic transaction, comprising the step of creating quality information by the portable data carrier about how the authentication of the user was performed by the used user authentication method and attaching said quality information is attached to the result of the security-establishing operation (Mimura: column 6 lines 39-54; column 10 lines 50-62; column 11 lines 4-11; column 11 line 64 through column 12 line 7).

However, Mimura does not explicitly disclose using one of different user authentication methods to authenticate the user. Kao discloses using one of different user authentication methods to authenticate the user (Kao: See figure 9; and column 2

lines 50-60: to authenticate a user with a selected one of a plurality of authentication processes). Therefore, it would have been obvious to a person skilled art at the time the invention was made to have included in Mimura the feature of Kao as discussed above because what is needed is a flexible way to provide diverse user authentication mechanisms and processes for a stand alone computer system or for a computer network (Kao: column 2 lines 25-28).

Regarding claim 3, Mimura as modified discloses wherein the authentication of the user is performed by presentation of a biometric feature (Mimura: See figure 1 item 102).

Regarding claim 4, Mimura as modified discloses wherein the authentication of the user is performed by presentation of a physiological or behavior-based feature characteristic of a user (Mimura: column 2 lines 35-41).

Regarding claim 5, Mimura as modified discloses wherein the authentication of the user is performed by proof of knowledge of a secret (Mimura: column 6 lines 44-48).

Regarding claim 6, Mimura as modified discloses wherein at least two different authentication methods of different quality are offered for authentication of the user (Kao: See figure 9; and column 2 lines 50-60). The same motivation was utilized in claim 1 applied equally well to claim 6.

Regarding claim 7, Mimura as modified discloses wherein the particular authentication methods not used are disabled (Mimura: column 4 line 57 through column 5 line 4).

Regarding claim 8, Mimura as modified discloses wherein no quality information is produced for an authentication method (Mimura: See figure 1 and figure 16; column 11 lines 4-11).

Regarding claim 10, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 12, this claim has limitations that is similar to those of claim 6, thus it is rejected with the same rationale applied against claim 6 above.

Regarding claim 14, Mimura as modified discloses a system for effecting a secure electronic transaction within which the quality of authentication of a user of the system is ascertained, comprising a portable data carrier according to claim 10 and a terminal according to claim 13 (Mimura: See figure 1).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura in view of Kao, and further in view of Barlow et al. (US 6810479) (hereinafter Barlow).

Regarding claim 2, Mimura in view of Kao does not disclose wherein the security-establishing operation performed by the portable data carrier comprises creating a digital signature. However, Barlow discloses wherein the security-establishing operation performed by the portable data carrier comprises creating a digital signature (Barlow: See figure 9; column 6 lines 3-7; column 12 lines 49-55; column 15 lines 30-44; column 16 lines 23-45). Therefore, it would have been obvious to a person skilled art at the time the invention was made to have included in Mimura in view of Kao the feature of Barlow as discussed above because encryption, decryption, digital signing, and verification are therefore the principal cryptographic primitives that are used in an electronic network setting to facilitate the security, privacy, authenticity, and integrity of information being exchanged (Barlow: column 3 lines 45-49).

Regarding claim 11, this claim has limitations that is similar to those of claim 2, thus it is rejected with the same rationale applied against claim 2 above.

11. Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura in view of Kao, and further in view of Foley et al. (US 20020087894) (hereinafter Foley).

12.

Regarding claim 9, Mimura in view of Kao does not disclose wherein a user is asked to select an authentication method. However, Foley discloses wherein a user is asked to select an authentication method (Foley: paragraphs 0010; 0026-0028). Therefore, it would have been obvious to a person skilled art at the time the invention was made to have included in Mimura in view of Kao the feature of Foley as discussed above because existing systems, however, are limited to pre-defined security features and procedures and generally require that a merchant initiate changes to accommodate each different smart card or wallet. Thus, a new system of accessing a restricted service (e.g., conducting electronic transactions) is desired which would allow the user to select the method of authentication and provide improved security with minimal overhead for users and merchants (Foley: paragraph 0009).

Regarding claim 13, this claim has limitations that is similar to those of claim 9, thus it is rejected with the same rationale applied against claim 9 above.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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/Trang Doan/
Examiner, Art Unit 2431
/Syed Zia/
Primary Examiner, Art Unit 2431